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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/041,976      | 01/09/2002  | Michael B. Kennedy   |                     | 6927             |

7590 07/14/2005

Mr. Michael B. Kennedy  
871 Ethan Allen Hwy.  
Ridgefield, CT 06877

EXAMINER

PALADINI, ALBERT WILLIAM

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2125

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                |                                     |  |
|------------------------------|--------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/041,976  | Applicant(s)<br>KENNEDY, MICHAEL B. |  |
|                              | Examiner<br>Albert W. Paladini | Art Unit<br>2125                    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2002.  
2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 and 2 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1 and 2 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a credible asserted utility or a well-established utility.

The invention does not fall into one of the accepted categories of invention, as it is neither method nor apparatus. The equation on page 5 sets  $S_n$ , or System needs equal to  $Bp_n$ , or Business or Government process needs. No units are provided for the variables.  $BPr_n$  is defined as requirements being constrained by "factors of resources, competency, business rules", etc, but no units or methodology of obtaining these constraints are provided. Specific units are not provided for the process needs ( $Bp_n$ ) and system needs ( $S_n$ ). The process requirements ( $BPr_n$ ) are not defined in units, so that the equation may be understood and utilized in a real world environment. As written and explained, it is a vague general abstraction that suggests possible relationships. The constraint modifications such as resources, competency, business rules, or compliancy are not described in a manner to make it is understood how they are obtained, what units of measurement are used, and how all of these divergent factors are combined in a manner which results in a single measure. There is no explanation of the units of resources, competency, business rules, or compliancy. Since each of these factors would be expressed in different units, it is not understood how combining them would result in a single measure of  $BPr_n$  or  $Bp_n$ .

Similarly, none of the other equations on pages 6 through 14 are explained. No units are provided, and no method of putting this into practice is explained. For example, the phrase "The  $n$ th value is the proportion of competency, which is the value applied to the complexity or detail of information that the given abstract encompasses, as it relates to a process of information that spans a particular category of information C" on page 6 is not understood. On page 5, it states "Abstracts and, or empirical content components, include project management tools; charts, diagrams, and calculations." There is not explanation of how all of these elements are converted into numerical values, which are expressed by the first equation on page 6. The specification goes on to discuss undefined terms like "phase of resolution" and "optical capture" and suggests that all of the elements are somehow combined in the numerous relationships expressed on pages 5 through 14. However, none of the terms are defined. In addition, there is no methodology provided which would enable the elements to be quantified and then converted to units, which enable them to be combined. There is also no explanation of how the relationships on pages 8 to 14 are derived or obtained. Weighting factors resources as integer values, etc. are discussed. Some of these factors are in the numerator of the equations, some in the denominator. There is no explanation of how these numbers are chosen, nor are there resultant relationships which result in a system or methodology which may be implemented.

***Claim Rejections - 35 USC § 112***

Claims 1 and 2 are also rejected under 35 U.S.C. 112, first paragraph.

Specifically, since the claimed invention is not supported by either a credible asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

The claims do not recite any valid limitations, but refer to the "patent application" and "drawings" to suggest relationships between abstract concepts or "technical project requirements", "dependent concepts" and "core completeness". As demonstrated in paragraphs 1-3, the invention as described lacks utility, but even if the specification and drawings did describe a valid invention, the claims would still be omnibus, as they do not explain the metes and bounds of the invention.

***Relevant Prior Art***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Narimatsu (5826236) discloses a method whereby a project is scheduled by allocating resources, which are workers (in this example, designers) to processes. They are responsible for designing two types of videocassette recorder, each of which has its own schedule. That is, the designer team is responsible for designing two types of model, each with its own project start date and desired project end date. The design of each model consists of a plurality of design items, each of which consists of a plurality of processes. And, a chief designer is assigned to each design item. Under this condition, this problem determines the designers and workdays for all the processes.

Oliver (5907490) discloses a system for monitoring and assessing the performance of a project that includes a computer and a software program associated with the computer, with the software program and computer operable in combination to receive project task data from a project management software, determine current earned value (EV) information from the project task data, and graphically displaying the earned value information.

Leymann (6009405) discloses a project management method for scheduling workflow and resources, which utilizes a process model which consists of a network of distributed activities and transactional work items.

Lautzenheiser (6351734) discloses a method and system for allocating resources amongst a hierarchy of projects are provided in various embodiments of the invention. In a first embodiment, a method is provided for management of resources estimated to be required to develop a product and distribution of resources allocated for the development of the product. A hierarchy of projects required for completion of the product is defined in a database, estimations of resource requirements are associated with the respective projects, and project-level target allocations of resources are associated with the respective projects. The project-level target allocations of resources are automatically summed for a calculated total target allocation of resources, and the calculated total target allocation of resources is associated with the product. An actual total target allocation of resources is assigned to the product, and the hierarchy of projects, associated estimations of resource requirements, project-level target allocations, the calculated total target allocation, and the actual target allocation of resources for the product are interactively displayed.

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6. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Albert W. Paladini whose telephone number is (571) 272-3748. The examiner can normally be reached from 7:00 to 3:00 PM on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Leo P. Picard, can be reached on (571) 272-3749. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

July 12, 2005



Albert W. Paladini  
Primary Examiner  
Art Unit 2125